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15-01-00-0114

Date: JUL 29 2015

Mike Mihelich  
Kootenai Environmental Alliance  
PO Box 1598  
Coeur d'Alene, ID 83816

Dear Mr. Mihelich:

This letter is in response to your objection to the Bottom Canyon Healthy Forests Restoration Act (HFRA) project on the Idaho Panhandle National Forest. The Responsible Official, Forest Supervisor Mary Farnsworth, and I as the Objection Reviewing Officer have read your objections and suggested remedies, and reviewed the Environmental Assessment (EA) and draft Decision Notice (DN), the project file, and the comments submitted to this project. This letter details my responses to your objections based on my review and understanding of the disclosed environmental effects of this project in accordance with 36 CFR 218 Subpart A, *Project Level Predecisional Administrative Review Process*.

As specified at 36 CFR 218.11(b), I must provide a written response that sets forth reasons for the response; however, this written response need not be point-by-point. The Responsible Official and I have reviewed the project in light of the issues presented in your objections. I have considered the issues and suggested remedies and included my reasons for response to these issues, which are detailed below.

This letter satisfies the requirements of 36 CFR 218.11, *Resolution of Objections*. No further review from any other Forest Service or U.S. Department of Agriculture official of my written response to these objections is available.

**Issue 1:** You allege the EA/Proposed Action do not comply with HFRA or National Environmental Policy Act (NEPA) because the EA fails to:

- 1) provide documentation supporting the suitability under HFRA (wildland urban interface (WUI) areas of at-risk communities, condition class 3 lands, condition class 2 lands within fire regimes I, II, or III, etc.) for each acre proposed for logging treatments in the Bottom Canyon area (HFRA Section 102(a)(1) through 102(a)(4));
- 2) provide adequate supporting documentation for each acre in the project area that prescribes which category of WUI those acres fall into (i.e. within 1.5 miles of the boundary of a community, outside of 1.5 miles but within the interface as defined by the Community Wildfire Protection Plan, and areas outside of those) (HFRA Section 101(16)) and Section 104(d)(1) through (d)(3)); and



- 3) acknowledge that the proposed logging of 915 acres, including 10 or more large diameter trees per acre, is in direct conflict with the HFRA requirement for large tree retention (HFRA Section 102(f)).

**Response:** You raise objection points that are found under Title I of HFRA (Sections 101, 102, and 104). The Bottom Canyon project however is being carried out under Title VI of HFRA. Title VI of HFRA does not have the same requirements as Title I of HFRA, as described in the Bottom Canyon EA (p. 4) and draft DN (p. DN-2).

The 2014 Farm Bill (Section 8204) amended Title VI of the 2003 HFRA (16 USC 6591) by adding section 602 (Designation of Treatment Areas) and section 603 (Administrative Review) to address qualifying insect and disease infestations on National Forest System lands (draft DN, p. DN-2).

The Bottom Canyon Project meets the requirements of Title VI, Section 602(d) of HFRA (draft DN, p. DN-2). The Bottom Canyon Project area is within areas designated by Department of Agriculture Secretary Vilsack to address insect and disease threats that weaken forests and increase the risk of forest fire (EA p. 4; Project File (PF) Doc. NFMA-06 and PF Doc. NFMA-07). The Governor of Idaho has asked that priority be given to project development within these designated insect and disease areas.

The Selected Alternative is consistent with the requirements of HFRA (draft DN, Appendix C, p. C-6). All of the activities are located on National Forest System lands and there are no lands in or adjacent to the Bottom Canyon Project area designated as wilderness or wilderness study areas (EA p. 1). Activities are not in any area where removal of vegetation is prohibited (EA, pp. 53 to 54).

The project area is not within the WUI as defined by the Kootenai County Local Emergency Planning Committee (Fire-Fuels Report, p. 6; PF Doc. FF-1, PF Doc. FF-2). However, the Bottom Canyon Project meets requirements to be carried out in accordance with Title VI, section 602 (d) of the HFRA, as amended by the 2014 Farm Bill, to address qualifying insect and disease infestations on National Forest System lands because Section 602(d) does not require that the project's proximity to the WUI be identified.

The large tree retentions provisions of HFRA Title I, Section 102(f) do not apply to HFRA Title VI projects. HFRA Title VI, Section 602(e) requires projects to maximize the retention of old-growth and large trees, as appropriate for the forest type, to the extent that the trees promote stands that are resilient to insects and disease. The project is doing that (EA pp. 48 to 52).

Post-treatment proportions of forest structure by size class are described in the EA (p. 41); the 16-inch diameter at breast height (DBH) trees are within the large size class. Large and old trees of any species would be retained throughout harvested stands, adding to the structural complexity of the stand and potentially providing denning and foraging opportunities in the near future (Design Features; EA Appendix E, p. E-10).

Approximately 155 acres are being managed for old growth recruitment as a result of the development of the proposed vegetation management actions. In addition, at least 1,685 acres of stands with an average of 10 or more trees per acre greater than 21 inches DBH would remain unharvested (EA, p. 54). These stands would retain the potential to develop into future old growth within 50 years.

I find that the Bottom Canyon Project is in compliance with HFRA and NEPA. There are no instructions.

**Issue 2:** You alleged the cumulative effects analysis is inadequate under NEPA because the EA fails to accurately and rigorously analyze the aquatics cumulative effects to the impaired watersheds within and downstream of the project area.

You contend that the proposed activities would result in a violation of Idaho Water Quality Standards (WQS) due to the sediment released as a result of proposed logging and road construction activities. Further, you contend that the Bottom Canyon project is not in compliance with the requirements of the Clean Water Act (CWA), including the antidegradation policy (40 CFR 131.12) because the sediment released will negatively impact water quality limited segments as defined by the CWA.

Finally, you contend that the Water Erosion Prediction Project (WEPP) model does not exhibit a high level of scientific integrity as required by NEPA at 40 CFR 1500.1(b) and 1502.24. Neither the EA nor the Hydrology Report mention there are limitations and requirements associated with the WEPP model.

**Response:** Past, present, and reasonably foreseeable activities were identified in the EA (Appendix A). Spatial and temporal boundaries set the limits for selecting the actions most likely to contribute to cumulative effects; the EA described the spatial and temporal boundaries (EA pp. 76 to 77) used for the hydrology analysis (EA pp. 74 to 95; PF Doc. SR-06, pp. 11 to 15).

The hydrology analysis addressed sediment delivery (EA pp. 79 to 82 and 85 to 86). The Selected Alternative will fully meet all standards and guidelines applicable to hydrology and aquatic habitats in the Bottom Canyon Project area (EA pp. 92 to 94). Activities under the Selected Alternative will improve water quality in project area streams by decreasing sediment delivery and increasing shading (thereby decreasing water temperature).

The hydrology analysis for the Selected Alternative determined the Clean Water Act and Idaho WQS in the Bottom Canyon Project Area will be met by utilizing applicable best management practices and adhering to the relevant total maximum daily load requirements, reducing sediment delivery to project area streams and increasing riparian shading (EA Section 3.4.5.1.1).

Determining sediment delivery, including the use of Forest Service Distributed WEPP, is described in the EA (p. 75), with additional discussion provided in the Hydrology Report (p. 7), including the statement that the WEPP models and supporting documentation and limitations can be found at: <http://forest.moscowfs1.wsu.edu/fswepp/>.

The Selected Alternative (Alternative 3) was developed in response to concerns identified by the public, including the Idaho Department of Environmental Quality (DEQ), North Fork Coeur d'Alene River Watershed Advisory Group (WAG), Idaho Fish & Game, and Ed Lider (DN p. DN-15). I note the Forest received letters of support for the Selected Alternative from DEQ (PF Doc. PI-070), WAG (PF Doc. PI-072), and Ed Lider (PF Doc. PI-067), as well as North Idaho Flycasters (PF Doc. PI-068). In their letter, DEQ (PF Doc. PI-070) stated (in part), "The Bottom Canyon Project addresses a need to improve impaired water quality in the project area through watershed restoration activities...DEQ supports these water quality improvement activities that will help achieve the goals set by sediment and temperature total maximum daily loads in these watersheds."

I find that the project is in compliance with NEPA, the Clean Water Act, and Idaho State water quality standards. There are no instructions.

### **Summary**

In conclusion, I have reviewed your assertions that the project violates various environmental laws, regulations, polices, and the Forest Plan, and have provided responses where appropriate. My review finds the project is in compliance with all applicable laws and the Forest Plan, and the Forest Supervisor may now sign the Decision Notice for this project. My review constitutes the final administrative determination of the Department of Agriculture; no further review from any other Forest Service or Department of Agriculture official of my written response to your objection is available (36 CFR 218.11(b)(2)).

Sincerely,



DAVID E. SCHMID  
Deputy Regional Forester

cc: Ray G. Smith  
Mary Farnsworth